

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 22, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MICHAEL LADUE and AMANDA
LADUE,

Plaintiffs,

vs.

KETTLE FALLS INTERNATIONAL
RAILWAY, LLC, and OMNITRAX,
INC.,

Defendants.

No. 2:21-CV-0205-MKD

ORDER SETTING
SETTLEMENT CONFERENCE

---- ACTION REQUIRED ----

Settlement Offer Due: 10/21/2022

Response to Offer Due: 10/28/2022

***In Camera* Letters Due: 11/08/2022**

Settlement Conference: 11/22/2022

By referral from the Honorable Mary K. Dimke, ECF No. 65, and with the consent of the parties to this action, a settlement conference shall commence **November 22, 2022, at 9:00 a.m.**, before the undersigned, in Suite 740, 920 West Riverside Ave., United States Courthouse, Spokane, Washington.

The purpose of the settlement conference is to permit an informal discussion among the attorneys, parties, non-party indemnitors or insurers, and this magistrate judge of every aspect of the lawsuit bearing on its settlement value.

Mediation Format

Settlement conferences typically are scheduled for a full, uninterrupted business day. The court generally will use a mediation format: that is, a joint introductory session followed by private caucusing by the court with each side. The

1 court expects both counsel and the party representatives to be fully prepared to
2 participate. The court encourages all parties to keep an open mind to reevaluate their
3 previous positions and to discover creative means for resolving the dispute.

4 Unless previously excused by the undersigned, for good cause, in addition to
5 counsel who will try the case and all named parties (including the person with full
6 settlement authority) must be physically present at this conference and ready to
7 proceed by 9:00 a.m. The person with full settlement authority must have the ability,
8 within his or her discretion, to permit payment in full of the request for relief under
9 the claims, counterclaims, and cross-claims, up to the limits of the opposing parties'
10 settlement demand that is produced as a result of this order as provided below.

11 The parties are responsible for timely advising any involved non-party
12 insurance company of the requirements of this Order. This magistrate judge may,
13 in his discretion, converse with the lawyers, the parties, the insurance
14 representatives, or any one of them separately, prior to and during the conference.

15 Submissions

16 On or before **October 21, 2022**, Plaintiff shall serve upon Defendant, with
17 an *in camera* copy to the undersigned, a written offer of settlement, which includes
18 monetary and non-monetary components, if any, with supporting reasons, and with
19 an itemization of Plaintiff's damages, unless an itemization of damages previously
20 has been provided. On or before **October 28, 2022**, Defendant shall serve, with an
21 *in camera* copy to the undersigned, Defendant's counter-offer with supporting
22 reasons upon Plaintiff and provide an *in camera* copy to the undersigned court.
23 Copies shall be emailed to: GoekeOrders@waed.uscourts.gov

24 Failure to comply with this requirement may result in cancellation or
25 rescheduling of the settlement conference.

26 In preparation for the settlement conference, each party shall submit an *in*
27 *camera* letter, labeled confidential, to the undersigned on or before **November 8,**
28

1 **2022.** Do not file copies of these letters on the court docket, and do not serve these
2 letters on the opposing party. The *in camera* letters shall set forth the following:

- 3 a. Name and title of the client who will be present throughout the
4 conference and will be authorized to enter into a settlement
5 agreement, and the names and titles of any other persons who
6 will accompany the party to the conference;
- 7 b. A brief analysis of key issues involved in the litigation;
- 8 c. A description of the strongest and weakest points in the party's
9 case, both legal and factual (the parties are invited to include as
10 letter attachments copies of key depositions);
- 11 d. A description of the strongest and weakest points in the
12 opponent's case, both legal and factual;
- 13 e. Itemization of damages, fees, and costs;
- 14 f. Status of any settlement negotiations, including the last
15 settlement proposal made by the party and opposing parties;
- 16 g. Settlement proposal the party believes to be fair; and
- 17 h. Settlement proposal the party is willing to accept to conclude the
18 matter and stop the expense of litigation.

19 *In camera* copies shall be emailed to: GoekeOrders@waed.uscourts.gov

20 Failure to submit an *in camera* letter may result in cancellation or rescheduling
21 of the settlement conference.

22 All communications made in connection with the settlement conference are
23 confidential and will not be disclosed. Any documents requested and submitted for
24 the settlement conference will be maintained in chambers and will be destroyed after
25 the conference. Neither the settlement conference statements nor any
26 communications occurring during the settlement conference can be used by any
27 party with regard to any aspect of the litigation or trial of this case.
28

Other Protocols

The court expects the parties to address each other with courtesy and respect. Parties are encouraged to be frank and open in their discussions. As a result, statements made by any party during the settlement conference are not to be used in discovery and will not be admissible at trial.

The court further expects the parties to proceed in good faith, to anticipate a settlement, and have available at the time of the conference a “settlement agreement” in a form acceptable to them for signature by all parties when a settlement is reached.

IT IS SO ORDERED.

DATED August 22, 2022.




JAMES A. GOEKE
UNITED STATES MAGISTRATE JUDGE